

Congress of the United States
Washington, DC 20515

July 22, 2020

Acting Secretary Chad Wolf
U.S. Department of Homeland Security
500 12th St. SW
Washington, D.C. 20536

Acting Director Matthew T. Albence
U.S. Immigration and Customs Enforcement
500 12th St. SW
Washington, D.C. 20536

Dear Acting Secretary Wolf and Acting Director Albence:

On June 30, 80 Members of Congress wrote to you to demand that families held at all three Immigration and Customs Enforcement (ICE) family detention centers be swiftly, safely, and promptly released together ahead of a court order to release all children in ICE facilities by July 17. We understand that that deadline has now been extended to July 27.

We are alarmed to learn that ICE is signaling in court filings that it will not release parents and children together and is instead persisting in pursuing a needlessly cruel approach that will result in family separation. We are also dismayed that ICE has failed to release children with their parents in the multiple weeks that have passed since Judge Gee's June 26 order directing ICE to release children in its facilities. We therefore write to you, once again, to demand that you release all families in ICE detention facilities together immediately.

In her June 26 order mandating ICE to release all children detained at its three family detention centers, District Court Judge Dolly Gee described how these facilities are "on fire," and concluded that "there is no more time for half-measures."^[1] In the months since the COVID-19 pandemic has hit, the virus has ravaged ICE detention centers: over 3,000 people detained have tested positive for COVID-19,^[2] and experts estimate that ICE may be seriously underestimating the true spread of the virus.^[3]

Family detention facilities are no exception: in the Karnes County Residential Center, 34 parents and children of approximately 100 detained have tested positive for COVID-19.^[4] Meanwhile, in the South Texas Family Residential Center in Dilley, Members of Congress who toured the facility were potentially exposed to a staff member who tested positive for COVID-19 shortly after their visit. Advocates and service providers have described how ICE is continuing to fail to

^[1] Vanessa Romo, "Judge Orders ICE To Free Detained Immigrant Children Because Of COVID-19," NPR NEWS, June 26, 2020, <https://www.npr.org/sections/coronavirus-live-updates/2020/06/26/884186168/judge-orders-ice-to-free-detained-immigrant-children-because-of-covid-19>.

^[2] "ICE Guidance on COVID-19," <https://www.ice.gov/coronavirus> (last accessed July 11, 2020).

^[3] Nina Siulc, "Vera's New Prevalence Model Suggests COVID-19 Is Spreading Through Ice Detention At Much Higher Rates Than Publicized," Vera Institute for Justice, June 4, 2020, <https://www.vera.org/blog/covid-19-1/veras-new-prevalence-model-suggests-covid-19-is-spreading-through-ice-detention-at-much-higher-rates-than-publicized>.

^[4] <https://twitter.com/camiloreports/status/1281588453440987136>.

take steps to prevent contagion in these family detention facilities, continuing to permit infected employees to come to work, and engaging in arbitrary contact-tracing and quarantine practices.

Since the COVID-19 crisis started, Members of Congress, advocates, attorneys and doctors have repeatedly urged ICE to use the ample discretion and authority it has to release detained families together. ICE's authority and discretion to release those in its custody long predates the pandemic, but the agency has nonetheless continued to implement cruel and inhumane policies toward immigrants, despite the exacerbated risks the pandemic poses to those in detention. Per a status report filed with the district court on July 8, ICE has prepared documents that would obtain information regarding possible sponsors for detained children upon their release. This suggests that the agency does not plan to release children with their parents and is instead pursuing a cruel plan to separate them or subject them to prolonged and harmful detention.^[5]

Both family detention and of family separation have long been seriously criticized by medical and mental health experts for the trauma they inflict on children and their parents.^[6] The powerful evidence documenting the harm of these practices only underscores the urgency of ending both immediately.

Release of these families has taken on additional urgency because of recent court decisions declaring unlawful a Trump administration policy banning asylum for people who transited through third countries on their way to the United States.^[7] We have heard from the attorneys representing many of the detained families that most of them were wrongfully denied a chance to seek asylum because they were subject to this ban, which is now longer in effect. The families must now be afforded a fair chance to seek asylum and should be paroled from detention during their asylum proceedings.

We demand that you cease inflicting needless heartache and cruelty upon the hundreds of parents and children in your detention facilities, many of whom came to the United States in search of safety and freedom and have instead been met with prolonged, indefinite detention. ICE has discretion to release these families together, as it regularly has in the past. By choosing not to do so now, it is choosing cruelty.

As the court's extended deadline for release of children quickly approaches, we urge you to release children together with their parents. Preserving the unity of these families is in these children's best interests, and it is also the right and compassionate thing to do. Family separation

^[5] Joint Status Report, *Flores v. Barr*, Case No. CV 8-4544-DMG, Dkt. No. 846, July 8, 2020, at 1.

^[6] Julie M. Linton, Marsha Griffin, Alan J. Shapiro, Council on Community Pediatrics, "Detention of Immigrant Children," March 9, 2017, <https://pediatrics.aappublications.org/content/early/2017/03/09/peds.2017-0483>; "AAP renews call for an end to family separation at the border," January 18, 2019, <https://www.aappublications.org/news/2019/01/18/immigration011819>; see also Miriam Jordan, "Whistle-Blowers Say Detaining Migrant Families 'Poses High Risk of Harm,'" NEW YORK TIMES, July 18, 2018, <https://www.nytimes.com/2018/07/18/us/migrant-children-family-detention-doctors.html>.

^[7] See Memorandum Opinion, *CAIR Coalition v. Trump*, No. 19-2530, Dkt. 72, June 30, 2020, available at <https://www.humanrightsfirst.org/sites/default/files/CAIR%20Coalition%20Opinion%20%281%29.pdf> (granting summary judgment to plaintiffs based on third-country transit ban's violations of multiple provisions of the Administrative Procedure Act); *East Bay Sanctuary Covenant v. Barr*, Nos. 19-16487, 19-16773 (9th Cir. 2020) (slip op.), available at <https://cdn.ca9.uscourts.gov/datastore/opinions/2020/07/06/19-16487.pdf> (upholding district court's preliminary injunction halting implementation of ban for violations of asylum and administrative law).

is a moral stain on this chapter of American history. This administration must not use COVID-19 as an opportunity to revisit it.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Joaquin Castro". The signature is written in a cursive, flowing style.

Joaquin Castro, Member of Congress

Zoe Lofgren
Member of Congress

Adam Smith
Member of Congress

Alan Lowenthal
Member of Congress

Andy Levin
Member of Congress

Ayanna Pressley
Member of Congress

Bill Pascrell, Jr.
Member of Congress

Deb Haaland
Member of Congress

Donald M. Payne, Jr.
Member of Congress

Filemon Vela
Member of Congress

Gilbert R. Cisneros, Jr.
Member of Congress

Henry C. "Hank" Johnson, Jr.
Member of Congress

James P. McGovern
Member of Congress

Jerrold Nadler
Member of Congress

Adriano Espaillat
Member of Congress

Albio Sires
Member of Congress

Ann Kirkpatrick
Member of Congress

Barbara Lee
Member of Congress

Darren Soto
Member of Congress

Debbie Dingell
Member of Congress

Earl Blumenauer
Member of Congress

Frank Pallone, Jr.
Member of Congress

Grace F. Napolitano
Member of Congress

J. Luis Correa
Member of Congress

Jamie Raskin
Member of Congress

Ben Ray Luján
Member of Congress

Al Green
Member of Congress

Ami Bera, M.D.
Member of Congress

Anthony G. Brown
Member of Congress

Bill Foster
Member of Congress

David E. Price
Member of Congress

Debbie Mucarsel-Powell
Member of Congress

Eleanor Holmes Norton
Member of Congress

Frederica Wilson
Member of Congress

Grace Meng
Member of Congress

Jahana Hayes
Member of Congress

Jan Schakowsky
Member of Congress

Jared Huffman Member of Congress	Jason Crow Member of Congress	Jesús G. "Chuy" García Member of Congress
Jim Costa Member of Congress	Jimmy Gomez Member of Congress	Jimmy Panetta Member of Congress
José E. Serrano Member of Congress	Juan Vargas Member of Congress	Julia Brownley Member of Congress
Linda T. Sánchez Member of Congress	Lloyd Doggett Member of Congress	Madeleine Dean Member of Congress
Marc Veasey Member of Congress	Marcy Kaptur Member of Congress	Mark DeSaulnier Member of Congress
Mark Pocan Member of Congress	Mikie Sherrill Member of Congress	Nanette Diaz Barragán Member of Congress
Norma J. Torres Member of Congress	Nydia M. Velázquez Member of Congress	Pete Aguilar Member of Congress
Pramila Jayapal Member of Congress	Rashida Tlaib Member of Congress	Raúl M. Grijalva Member of Congress
Rosa L. DeLauro Member of Congress	Ruben Gallego Member of Congress	Susan A. Davis Member of Congress
Suzanne Bonamici Member of Congress	Sylvia R. Garcia Member of Congress	Ted W. Lieu Member of Congress
Tony Cárdenas Member of Congress	Veronica Escobar Member of Congress	Angie Craig Member of Congress
Bonnie Watson Coleman Member of Congress	Cedric L. Richmond Member of Congress	David Trone Member of Congress
Emanuel Cleaver, II Member of Congress	Ilhan Omar Member of Congress	Jackie Speier Member of Congress
James R. Langevin Member of Congress	Mark Takano Member of Congress	Mike Quigley Member of Congress
Ro Khanna Member of Congress	Salud O. Carbajal Member of Congress	Sean Casten Member of Congress
Chrissy Houlahan Member of Congress		Mike Doyle Member of Congress